presubscription selections.[37] All of this underscores the fact that the interexchange market has developed largely as a presubscription-based market. LCI expects that the interexchange market will continue to be based on competition for presubscribed customers. The existence of, and market entry by, so-called "dial-around" carriers[38] has very little impact on LCI's revenues or on its marketing strategy geared toward presubscription. Nor does LCI believe that dial-around services will significantly erode any carrier's base of presubscribed customers or reduce the importance of customer presubscription to the interexchange industry.

In short, presubscribed lines are the most appropriate means for measuring IXC market share and for recovering NTS access costs from IXCs. Accordingly, LCI urges the Commission to require ILECs to recover their NTS loop costs and NTS local switching costs through charges assessed on IXCs based on each IXC's number of presubscribed lines.

---

[37]See, *e.g.* Heartline Communications, Inc. (*Notice of Apparent Liability for Forfeiture*), FCC 96-272, released June 20, 1996, Cherry Communications, Inc. (*Consent Decree*), 9 FCC Rcd 2086 (1994).

[38]As used herein, a "dial-around" carrier is a carrier whose advertising solicits callers to use its services by dialing an access code rather than by signing up to be a "1+" customer.

IV. Neither Call-Setup Charges Nor Peak/Off-Peak Pricing Should be Mandated At This Time

At Section III.C.2 of the Notice, the Commission invites comment on several proposals for the recovery of traffic sensitive local switching costs. First, it suggests that ILECs be permitted or required to establish call-setup charges which would be assessed on every call attempt, irrespective of call duration, and irrespective of whether the call-setup attempt is successful (*i.e.*, whether the call is completed).[39] Second, it proposes that ILECs implement peak/off-peak pricing for shared local switching facilities.[40] In LCI's view, neither of these proposals merits adoption and would impose additional unnecessary regulation and burdens on competitors.

Unlike the pricing distortions regarding recovery of NTS costs which are raised in the Notice and addressed in Section III of these comments, the manner in which ILECs recover their costs of establishing transmission paths for interexchange traffic within local exchanges has not been a source of significant controversy. LCI's basis for opposing call-setup charges derives from LCI's view of "service." When a caller attempts unsuccessfully to initiate a call, no service has been provided to that caller. Even though a LEC may have incurred costs in setting up the attempt, and even though an IXC may have incurred costs in transporting the unsuccessful call attempt along its network, unless and until the called party answers the call and establishes

[39] Notice, *supra*, at ¶¶ 75.76.

[40] *Id.* at ¶¶ 77-78.

communication with the calling party, the caller has not received service. Just as it is not proper for IXCs to charge callers for uncompleted call attempts, LCI does not believe that it is proper for LECs to charge IXCs for unsuccessful attempts. To continue the correlation between access service provided to IXCs and interexchange service provided to customers, LCI would support continued recovery of those costs in the usage-based local switching elements.[41]

Neither should the Commission mandate or permit establishment of peak/off-peak rates for traffic sensitive switching. LCI recognizes that telecommunications networks, like other public utility facilities, are designed to accommodate anticipated peak period requirements. LCI also recognizes that peak/off-peak pricing has been implemented successfully in certain utility pricing schemes (*e.g.*, electric power). Nonetheless, there are significant differences between exchange access and those other industries -- differences which militate against peak/off-peak pricing of access service. A division along those lines would create an opportunity for discrimination among access providers by skewing the definition of peak and off-peak.

Of paramount importance, there do not appear to be uniform peak and off-peak periods in telecommunications. Historically, business peak periods have been during middle portions of the business day. Residential peak periods have tended to be in the evening hours. Rural areas tend

[41]In a different context, the Commission has acknowledged that consumers do not expect to pay for uncompleted call attempts, and that carriers are not entitled to recover their costs of uncompleted call attempts. See VIA USA, Ltd., 10 FCC Rcd 9540 (1995) at ¶ 14 (. . . in the system as currently structured by facilities-based carriers, customers do not expect to pay for an uncompleted call. Nor do carriers expect to be compensated.").

to have earlier peak periods than urban areas. Thus, the peak periods may -- and often do -- differ within an ILEC's local exchange area. The business portions of exchange areas have different peak periods than the residential portions of the same exchange areas. In many cases, individual end offices switches serve areas with different peak periods. In addition, peak and off-peak periods are changing as telecommunications consumption is changing. For example, the growth of on-line and data transmission services has increased evening and even late night usage, while the growth in telecommuting and work-at-home arrangements has increased residential daytime usage. The result of these changing conditions is that peak and off-peak periods may not be accurately determined. For these reasons, LCI urges the Commission not to require nor to permit ILEC establishment of peak/off-peak rates for traffic sensitive switching.

V. The Transport Interconnection Charge Has Outlived Its Usefulness and Should be Immediately Terminated

One aspect of the Commission's access charge rules which warrants immediate reform is the Transport Interconnection Charge (TIC). That charge is, by definition, a residually-derived pricing mechanism which has enabled ILECs to recover costs which bear no relationship to their costs of providing access service. The TIC was created in 1991 as a mechanism to enable ILECs to continue to receive all of the access revenues which they enjoyed prior to the mandatory elimination of the "equal per unit of traffic rule" established for the BOCs by the Modification of Final Judgment.

Significantly, the TIC is not cost-based, and never was cost-based. Rather, it was created as a replacement mechanism to enable ILECs to continue to enjoy a revenue stream that was -- and is -- far beyond any measure of economic costs incurred in the provision of access service in general or transport in particular. As the Commission has acknowledged on numerous occasions, including the Notice in this proceeding, access rates are not based on cost and contain a variety of subsidies which have been included for various public policy reasons. Once it is determined that access prices, including transport rate elements, should be based on TSLRIC-based forward looking costs, with those non-cost-based subsidy revenues excised from access rates, a TIC no longer is necessary nor appropriate. Accordingly, LCI urges the Commission to order an immediate elimination of the TIC as a non-cost-based residual revenue stream which is thoroughly at odds with the movement toward cost-based pricing of regulated services, and promotion of competition in the provision of local services -- purposes which are at the heart of the 1996 Act.

CONCLUSION

In these comments, LCI has addressed the issues set forth in the Notice which are of primary concern to it. Accordingly, LCI respectfully urges the Commission to adopt reforms to its access pricing rules which are consistent with the views set forth in these Comments.

Respectfully submitted,

LCI INTERNATIONAL TELECOM CORP.

Gregory M. Casey
Douglas W. Kinkoph

LCI International Telecom Corp.
8180 Greensboro Drive
Suite 800
McLean, Virginia 22102

Gregory M. Casey

Mitchell F. Brecher

FLEISCHMAN AND WALSH, L.L.P.
1400 Sixteenth Street, NW
Washington, DC 20036
(202) 939-7900

Counsel to LCI International Telecom Corp. Inc.

Mitchell F. Brecher

January 29, 1997